



Managing Performance During Remedial Action Operations and Long-Term Monitoring

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Objective



Reinforce the importance of contract management of the RAO and LTM phases of the ERN process

- Work performed in LTM phase is as important as prior phases
- LTM work must be performed in accordance with the decision document or RAWP
- Managing contractor's work

Background



DERP Manual Identifies the Phases of Work for Environmental Restoration

- Investigation stages involve active efforts of research, field work, negotiations, evaluation
- Decision documents involve active negotiations with the regulators and notifications to the public
- LTM is not as active since most of the effort should be defined

Combining Multiple Sites on one LTM Contract

- Gain efficiency in contracting efforts
- Work should be already agreed upon and outlined
- BUT need to coordinate various sites and multiple RPMs

Background



Examples to be discussed:

- 5-year review for Marine Corps Hawaii sites
 - Calendar due dates for deliverables identified in the scope
- RAO/LTM for 8 Sites on one contract
 - 3 sites with only annual LUC inspections to record site conditions
 - 3 sites with groundwater sampling and LUC inspections
 - 1 site with sampling, cap maintenance and LUC inspections
 - 1 site with maintenance and LUC inspections

Five-Year Review for Marine Corps Sites



One Task Order for Marine Corps Hawaii sites

- Fixed-price small business contract
- Consolidated Five-Year review report for 2 installations (Camp Smith and Kaneohe Bay)
- 7 Sites
- 5 RPMs
- CTO awarded 2 years prior to 5-Yr review due date
- SOW specified a calendar date for deliverables:
 - Draft 5-Yr Review
 - Pre-Final 5-Yr Review
 - Final 5-Yr Review for signature
 - Final 5-Yr Review Report

Five-Year Review Background



Project kick-off meeting was held 13 months before Final Five-Year Review due date

Contractor missed due dates

- Draft Five-Year Review Report missed contract due date
- Final Five-Year Review due date passed and Draft report still not submitted
- RPM for the site with the trigger date for the Five-Year review was not the same RPM managing the contract task order

Navy requested project status from Contractor

- Site visits had been completed, however it was noted that they were done after contract due date for the draft report

Five-Year Review: Issues with Submittal



- **Technical Resolution:**
 - CTO COR adjusted deliverable schedule to separate Five-Year Reviews for the 2 Marine Corps installations
 - Requested Contractor's in-progress draft native files for installation with first regulatory due date (five year review trigger date)
 - Camp Smith Five-Year Review completed and signed in-house with expedited cooperation from Installation and regulators within one week
 - Still missed the regulatory due date by 5 days
 - Five-year review for the second Marine Corps installation (remaining 6 sites) still contracted
- **Contracting Officer and Contract COR informed of issues**
- **Contractor performance will be reflected in CPARS rating**

Five-Year Review: Lessons Learned



- Small business Contractors may have challenges with work load vs. resources
- Need for Contractor and Navy schedule tracking for tasks and deliverables; find one that works for you
- RPMs needs to provide sufficient oversight to monitor Contractor's schedule and deliverables
- Be aware of the tendency to place LTM phases on cruise control
- Multiple site RPMs on the same contract task order can present challenges

LTM Task Order for Several Sites



Fixed Price Task Order

- CTO initiated by an RPM that left NAVFAC HI
- Joint Venture included local (Hawaii) and mainland contractors
- 2 Installations
- 8 Sites
- 3 RPMs
- 3 years of LTM effort
- Many submittals requiring review
- Restricted Areas Required Escorts (Sampling and LUC Inspections)
- Invoices to be coordinated amongst RPMs

Awareness of the Problems



LTM Contractor Submitted Final Invoice

- All Reports had not been Finalized; missing several deliverables
- LUC Reports with annual inspections had been submitted for secured areas requiring escort.
 - No escort requests ever made for 2015 and 2016.
- Many other items in the PWS were not completed
 - LUC Inspections not completed
 - NIRIS Data Entry had not been done
 - Well closures/repairs not completed
 - PWS required written comment responses
 - For one site, all sampling parameters were not met

Other Red Flags



When Field Verified, LUC Reports Were Not Accurate

- Vegetation had not been cleared
- All analytes were not sampled for at one site
- Improper signage was not properly reported
- Formatting of pdf files, reports on CDs and labels not correct per PWS

Navy Response on Missed Efforts



- **RPMs Assembled Inventory of Deliverables**
- **Notification to Contractor of Deficiencies**
- **Opportunity Given to Contractor to:**
 - Explain if work was completed
 - Provide field notes to have evidence of claimed inspections
 - Provide completed documents
 - Follow up on incomplete tasks
- **Consultation with Contracts and Legal**
 - Determine how to resolve deficiencies
 - Contractor rating in CPARS

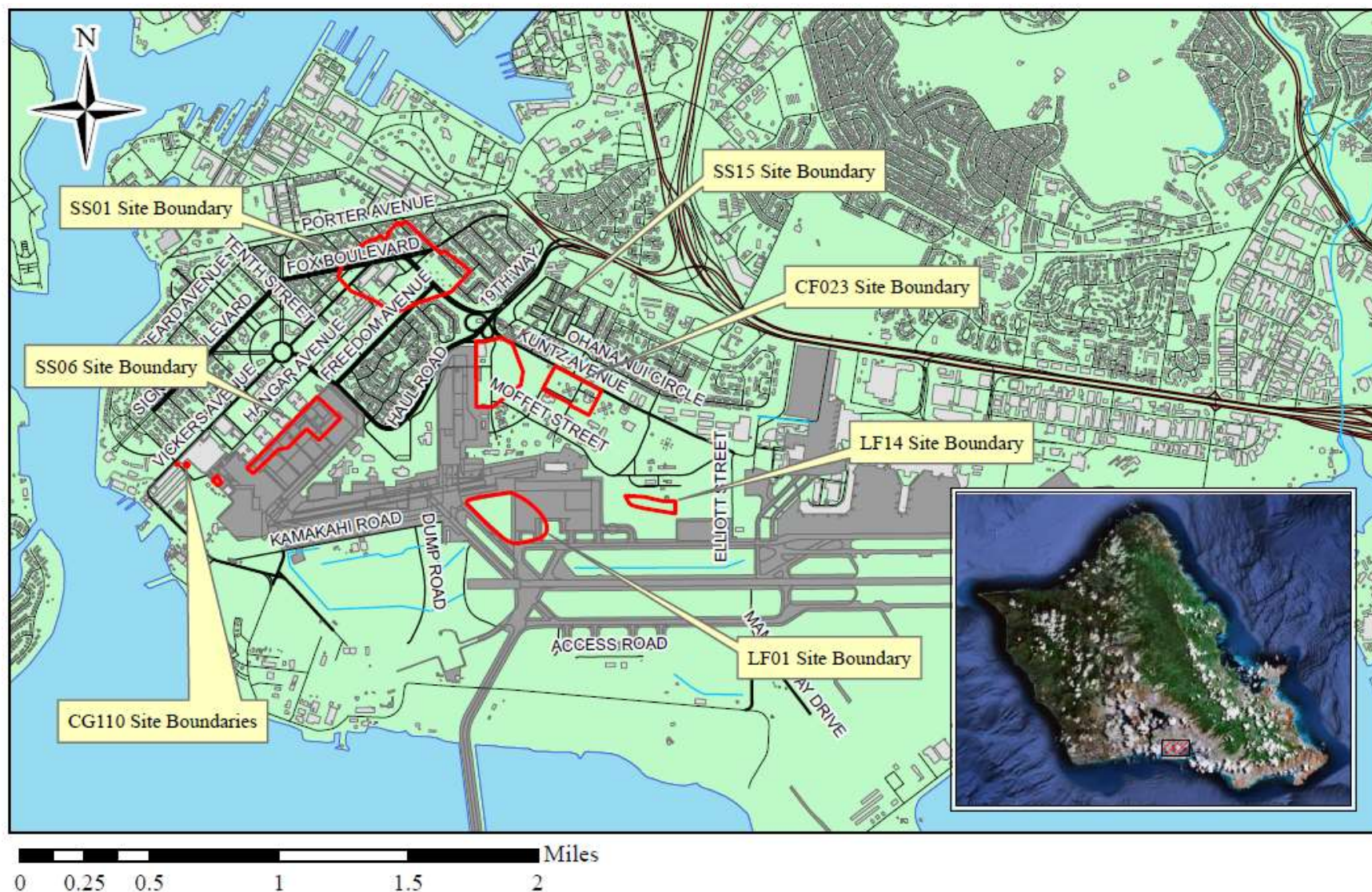
Example of Field Notes Provided



ANNUAL LAND USE CONTROL (LUC) INSPECTION CHECKLIST FOR SITE LF01,
JOINT BASE PEARL HARBOR-HICKAM (JBPHH)

Land Use Control		Inspection	Yes	No	N/A
SITE LAND USE AND REAL PROPERTY INFORMATION					
1	LUC implementation and compliance will be monitored by periodic review in accordance with the ROD for the site.	a. Was an inspection completed during the previous year (if required per the ROD)?	X		
		b. Has the prior year inspection report been prepared, provided to Hawaii Dept of Health (HDOH) and included in the Admin Record per the Site's ROD?	X		
2	Current land use will be maintained to reduce the possibility of exposure to COCs under other land use scenarios. The Base will consult with and seek concurrence from HDOH before (1) terminating LUCs; (2) modifying current land uses (3) initiating any anticipated action that may affect the effectiveness of the LUCs; or, (4) undertaking any action that may be inconsistent with the future land use assumptions or current land uses described in the ROD.	a. Has land use changed since the ROD? Has land use changed since the last LUC inspection? (Check with base planning thru RPM). If yes to either question, explain in notes.		X	
		b. If yes, was HDOH concurrence obtained prior to terminating LUCs or modifying current land uses?			X
3	LUCs typically restrict excavation, digging, and drilling within the restricted area without an approved Health and Safety Plan (HSP), use of proper Personal Protective Equipment (PPE), and other necessary precautions. If excavated contaminated soils, groundwater, and/or debris cannot be contained within the site, they must be properly transported to or disposed of at a facility that is acceptable for disposal of CERCLA waste under the Off-Site Disposal Rule (40 CFR 300.440).	a. Has any excavation and/or construction work occurred in restricted media within the LUC boundaries since the last inspection? If yes, describe in notes.		X	
		b. If yes to (a), was an approved HSP completed, proper PPE used, and other necessary precautions taken? If no, describe detail in notes.			X
		c. If yes to (a), was soil from within an area protected by LUCs removed from the site? If yes explain in notes the disposition of the site media (attach documentation of compliance with the Off-Site Rule, if applicable).			X
4	It is recommended that the HDOH be notified prior to performing significant construction/maintenance activities at sites with LUCs. The determination of whether a project is considered "significant" will be made by the RPM based on professional judgment considering factors including length of exposure, area of intrusive work, and impacts to long term effectiveness of the site remedy.	a. Were any significant construction/maintenance activities performed at this site since the last inspection?		X	
		b. If yes to (a) was HDOH notified? If no, describe detail in notes.			X

Sites for Inspection Not Visited



Inspection from Plane



Impact



- **Notification to regulators about missed inspections and data on monitoring events**
 - Annual LUC inspection reports for seven sites do not accurately reflect situation
 - Six biannual groundwater monitoring events at one site were not completed
- **Much time required by RPMs to develop response**
- **Contracting Officer/Legal involvement ongoing**

Options to Address Contract Issues



- Bilateral Modification
- Termination for Default
- Termination for Convenience
- Criminal Investigation/Charges (NCIS)
- Unsatisfactory rating for the Contractor

Lessons Learned



- When taking over someone else's CTO, don't assume contractor will continue to operate as before
- COR must be aware of requirements of all sites
- COR needs to insure that in a joint venture, that the prime contractor is providing adequate oversight of small contractor
- Try to have the deliverables include separate reports for sites managed by different RPMs
- Hold contractor to agreed upon schedule

Key Take Away Messages



RPM efforts for Five-Year Reviews, LTM and Annual Inspections should not be put on cruise control

- Ensure new contractor understands effort in the CTO
- Have a process in-place for CTO COR changes to ensure an efficient project transition
- Ensure timely and accurate document reviews, which can be difficult with many busy schedules
- Track deliverables and responses to comments in accordance with the SOW/PWS
- Be alert for potential red flags of fraudulent work
- Especially at first, hold periodic (weekly, monthly, as needed) conference calls for status updates

Key Take Away Messages (continued)



Determining a path forward (TBD...)

- Assess work completed and remaining
- Evaluate objectives
- Evaluate if performance of work is still appropriate
- Evaluate, based on recent performance, if contractor is capable of conducting future work
- Work with Contracts and Counsel

Key Take Away Messages (continued)



If you want to work on multiple sites with multiple RPMs on one task order, consider the following:

- Consider if the work is straightforward, reduces our contracting efforts, reduces contractor overhead
- Requires vigilant Navy oversight and is time consuming for RPMs
- Dealing with aftermath can be messy and time consuming

Contacts and Questions



Points of Contact

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Questions ?